

AMENDING TITLE 10, UNITED STATES CODE, BY REPEALING SECTION 7475, WHICH RESTRICTS THE INCREASING OF FORCES AT NAVAL ACTIVITIES PRIOR TO NATIONAL ELECTIONS

JULY 23, 1959.—Ordered to be printed

Mr. SYMINGTON, from the Committee on Armed Services, submitted the following

## R E P O R T

[To accompany H.R. 4068]

The Committee on Armed Services, to whom was referred the bill (H.R. 4068) to amend title 10, United States Code, by repealing section 7475, which restricts the increasing of forces at naval activities prior to national elections, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

### PURPOSE

This bill would repeal a law that prohibits an increase in the force at a naval activity within 60 days before a national election unless the Secretary of the Navy certifies that the needs of the service require the increase at that time.

### EXPLANATION

The provision of law proposed for repeal was originally enacted as part of the Naval Appropriation Act for fiscal year 1877, and read as follows:

and no increase of the force at any navy-yard shall be made at any time within sixty days next before any election to take place for President of the United States, or member of Congress, except when the Secretary of the Navy shall certify that the needs of the public service make such increase necessary at that time which certificate shall be immediately published when made.

When originally enacted, this provision was interpreted as applying only to 11 shipyards and the Naval Gun Factory. Because of the

few activities involved there was no substantial burden in making the necessary certification by the Secretary of the Navy.

When this provision was adopted as section 7475 of title 10, United States Code by Public Law 1028, 84th Congress, the original phrase "at any Navy yard" was reworded to read "at a naval activity." The Judge Advocate General of the Navy has concluded that this provision is now applicable to every naval activity that employs civilians. This means that in more than 770 naval activities all additions of personnel must cease 60 days before a national election unless the Secretary of the Navy makes special certification in each case that such an increase is necessary.

The practical effect is that although the work force at an activity might be below the authorized figure, hirings to cause the work force to be brought to its authorized strength could not be accomplished within 60 days before a national election without the secretarial determination. The volume of such determinations also could be burdensome.

The law proposed for repeal was enacted to prevent the hiring of personnel for the purpose of influencing an election.

Since the original law was enacted other provisions of law such as the Civil Service Act and the Veterans Preference Act impose more controls that prevent indiscriminate hiring. The Hatch Act and civil service regulations also provide protection against the practices that the 1877 provision was intended to control.

#### DEPARTMENTAL RECOMMENDATION

Printed below and hereby made a part of this report is a letter dated January 29, 1959, from the Secretary of Defense indicating that this bill is sponsored by the Department of Defense, and that it has been approved by the Bureau of the Budget.

THE SECRETARY OF DEFENSE,  
Washington, January 29, 1959.

Hon. SAM RAYBURN,  
*Speaker of the House of Representatives.*

DEAR MR. SPEAKER: There is enclosed herewith a draft of proposed legislation to amend title 10, United States Code, by repealing section 7475, which restricts the increasing of forces at naval activities prior to national elections.

This proposal is a part of the Department of Defense legislative program for 1959. It has been approved by the Bureau of the Budget. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. Its enactment by the Congress is recommended.

#### PURPOSE OF THE LEGISLATION

The purpose of the legislation is to repeal section 7475 of title 10, United States Code, which provides that no increase may be made in the force at a naval activity within 60 days before a national election unless the Secretary of the Navy certifies that the needs of the service requires the increase at that time. The provision has been made obsolete by later statutes far more workable administratively and causes an unnecessary expense and administrative burden.

The Naval Appropriation Act for the fiscal year 1877 (19 Stat. 69) contained the following provision under the heading "Bureau of Construction and Repair":

"And no increase of the force *at any navy-yard* shall be made at any time within sixty days next before any election to take place for President of the United States, or member of Congress, except when the Secretary of the Navy shall certify that the needs of the public service make such increase necessary at that time which certificate shall be immediately published when made." [Italic supplied.] The above provision was codified as section 509 of title 34, United States Code. It now appears as section 7475 of title 10, United States Code, as follows:

"No increase in the force *at a naval activity* may be made within 60 days before an election for President or members of Congress unless the Secretary of the Navy certifies that the needs of the service require the increase at that time. Whenever the Secretary makes a certificate under this section, he shall publish it immediately." [Italic supplied.] The report accompanying the bill which became title 10 states that "the words 'naval activity' are substituted for the words 'navy yard' to conform to modern usage" (S. Rept. 2484, 84th Cong., p. 542).

Prior to the enactment of title 10, the Department of the Navy had considered the above provision of the act of June 30, 1876 (19 Stat. 69), as applicable only to the several naval shipyards and the Naval Gun Factory, a Navy yard in 1876. Because of the small number of naval activities involved, there was no appreciable difficulty in making the necessary certification. The change in terminology, from "navy-yard" to "naval activity," has extended the statutory restriction to over 800 naval activities. The Judge Advocate General of the Navy, in construing section 7475, has determined that the certification for each naval activity must be made on the merits of the individual case. A general certification could not be justified except by some general emergency such as war or the imminent threat of war.

Strict adherence to the law presents tremendous administrative problems and expense. Changes and reallocations of workloads and missions, fleet support requirements, and emergencies require a flexible work force at most naval activities. The recruitment of skilled and essential personnel by naval activities often requires future date commitments, which may come within the 60-day period. The task of assembling and correlating this information so that prompt certification may be made to a naval activity is extremely difficult and time consuming.

The reasons for the statutory provision are made clear by a study of an investigation into the Navy Department made by the House Committee on Naval Affairs in the spring of 1876 (Misc. Doc. 170, 44th Cong.). The testimony was replete with references to unneeded employees being hired at Navy yards shortly before elections, and then being discharged after voting. Today, personnel are not hired indiscriminately as a means of influencing national elections. Even assuming a desire thus to influence elections, budgetary limitations, industrial fund financing, bureau and management control of personnel complements, civil service regulations, and such Federal statutes as the Hatch Act better achieve the objective of preventing

such activity. A similar restriction does not appear to exist for any other Federal department or agency. The obsolescence of the legislation is underscored by the implication that only the Department of the Navy must be restrained from engaging in or being a partner to the restricted practices.

COST AND BUDGET DATA

The enactment of this proposal will cause no increase in the budgetary requirements of the Department of Defense.

Sincerely yours,

NEIL McELROY.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, existing law proposed to be repealed by the bill is printed below:

§ 7475. Force at naval activities not to be increased before elections.

No increase in the force at a naval activity may be made within 60 days before an election for President or Members of Congress unless the Secretary of the Navy certifies that the needs of the service require the increase at that time. Whenever the Secretary makes a certificate under this section, he shall publish it immediately.

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